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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

## STIPULATION

IT IS HEREBY STIPULATED by the parties to this action by and through their  
respective counsel that *good cause* exists to continue the Pretrial Conference date of  
November 6, 2008, the Jury Selection date of November 10, 2008 and the Trial Date of  
November 12, 2008, 2008, by approximately 90 to 120 days, so that trial may begin to  
March 2, 2009 (a date which the parties understand is convenient to the Court's calendar)  
and to continue the pretrial deadlines to dates commensurate with the new trial date *in the*  
*interests of justice* based upon the following:

- (1) This case involves a Jones Act seaman, Samuel Garrett, who alleges that he suffered two injuries on two separate dates aboard separate ships while

1 employed by the defendant Maersk Line Limited (“MLL”). The first alleged  
2 incident occurred on or about June 28 or 29, 2004 while Mr. Garrett was  
3 working aboard the *M/V SeaLand Explorer* when he allegedly sustained  
4 injuries to his left thumb. The second incident occurred on February 23,  
5 2005 aboard the *M/V SeaLand Meteor* when Mr. Garrett suffered steam  
6 burns to both forearms while he was removing a blank at the base of a boiler  
7 for cleaning purposes;



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- 1 case poses even more logistical problems in terms of completing percipient  
 2 witness discovery than would be the case in an “ordinary” Jones Act seaman  
 3 case involving only one incident and one ship. The “ordinary” Jones Act  
 4 case in and of itself often presents more difficulties in completing discovery  
 5 than does a typical shoreside case where the witnesses are likely available  
 6 throughout the course of the litigation rather than being unavailable while at  
 7 sea. Here, with two incidents aboard two ships, the scheduling the witness  
 8 depositions becomes even more difficult;
- 9 (7) As a result of the above, the parties and counsel have been unable to  
 10 complete percipient witness discovery due, for the most part, to the  
 11 unavailability of the plaintiff and his co-workers as well as the result of  
 12 conflicts between counsel’s schedules;
- 13 (8) Additionally, although the plaintiff has returned to work, it remains to be  
 14 seen whether his condition has sufficiently plateaued or whether he will  
 15 require additional treatment in the future;
- 16 (9) Both parties therefore must undertake further discovery which will involve  
 17 the completion of the plaintiff’s deposition, deposing Mr. Garrett’s treating  
 18 physicians for both his steam burn injuries and his orthopedic thumb  
 19 complaints as well as scheduling an Independent Medical Examination (or  
 20 perhaps two evaluations given the alleged injuries to multiple body parts).  
 21 This discovery will have to be completed so that both parties will be able to  
 22 properly evaluate Mr. Garrett’s general and economic damages claims. All  
 23 of that testimony and evidence must then be provided to vocational  
 24 rehabilitation experts and economists who in turn will have to be deposed  
 25 once they have produced their reports;
- 26 (10) The issues outlined above cannot be properly evaluated until all this  
 27 discovery has been completed and therefore ***both parties*** agree that ***good cause exists*** for the requested continuance; and

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1                             (11) There have been no previous requests for a trial continuance.

2                             **OTHER CONSIDERATIONS**

3                             Counsel are currently adverse to one-another in several pending maritime actions  
4                             and have an excellent working relationship as far as scheduling matters in the most efficient  
5                             manner possible given the number of cases on which they are jointly working. Further  
6                             complicating the completion of discovery in this matter is that counsel for both parties had  
7                             been preparing for a trial which was scheduled to begin on September 8, 2008 in Alameda  
8                             Superior Court in the matter of *Anne-Cecile Madigan and Paul Madigan v. Allen Chin, et.*  
9                             *al.*, Case No. RG07324289. That matter has just recently settled. Counsel for the parties  
10                             have also been preparing for another trial which is scheduled to begin on October 14, 2008,  
11                             in Los Angeles Superior Court in the matter of *Wayne Berry v. Vessel Management*  
12                             *Services, Inc. and Crowley Towing and Transportation Company*, Case No. NC039981.  
13                             These two cases (with trial dates preceding the date in this actin) have been consuming a  
14                             considerable amount of counsel's time.

15                             **CONCLUSION**

16                             Based upon the above, the parties respectfully request that the jury selection date of  
17                             November 10, 2008 and the trial date of November 12, 2008 be continued to March 2, 2009  
18                             to allow for the completion of discovery so that the parties will be in a position to properly  
19                             evaluate the case. The parties also request that the Pretrial Conference be continued to a  
20                             date approximately two-weeks before the Trial Date. The parties therefore request that the  
21                             following schedule be adopted by the Court:

22	Ten Day Jury Trial:	March 2, 2009 at 8:30 a.m.
23	Pretrial Conference:	February 19, 2009 at 3:30 p.m.
24	Last Day to Hear Dispositive Motions:	February 5, 2009
25	Expert Discovery Cut-off:	January 30, 2008 - 2009
26	Simultaneous exchange of expert reports:	January 16, 2008 - 2009
27	Fact Discovery Cut-off:	January 16, 2008 - 2009

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Respectfully Submitted,

Dated: August 18, 2008

BANNING, MICKLOW & BULL  
Attorneys for Plaintiff  
SAMUEL GARRETT

By /S/ Edward M. Bull III  
Edward M. Bull III

Dated: August 21, 2008

COX, WOOTTON, GRIFFIN,  
HANSEN & POULOS, LLP  
Attorneys for Defendant,  
MAERSK LINE, LTD.

By: /S/ Marc T. Cefalu  
Terence S. Cox  
Marc T. Cefalu

**[PROPOSED] ORDER**

**PURSUANT TO STIPULATION IT IS HEREBY ORDERED THAT the**

currently scheduled Jury Selection date of November 10, 2008, the Trial date of November 12, 2008 and the Pretrial Conference date of November 6, 2008 are vacated. The Court orders that the following schedule be adopted:

## **IT IS SO ORDERED.**

Date: August 29, 2008

By:

